

# In the United States Court of Federal Claims

No. 20-1011C

(Filed March 25, 2021)

NOT FOR PUBLICATION

\* \* \* \* \*

DAVID B. NOLAN, SR.,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

\* \* \* \* \*


## ORDER

On August 10, 2020, plaintiff, David B. Nolan, filed a complaint in this court, seeking sick and annual leave dating from July of 1979, challenging the appointment of certain Merit Systems Protection Board (MSPB) judges, and requesting an investigation into certain parties for their alleged involvement in the assassination of President Kennedy. Compl. at 1–2. The government timely filed a motion to dismiss the complaint for lack of subject-matter jurisdiction, pursuant to Rule 12(b)(1) of the Rules of the United States Court of Federal Claims (RCFC). Def.’s Mot. to Dismiss (Def.’s Mot.). The government contends that Mr. Nolan’s claims for sick and annual leave are precluded by the Civil Service Reform Act, 5 U.S.C. §§ 1201–1206, which vests the MSPB with exclusive jurisdiction over covered employees. Def.’s Mot. at 1–2. In the alternative, defendant contends that plaintiff’s pay claims are time-barred as they accrued more than six years prior to the filing of the complaint. Def.’s Mot. at 2 (citing 28 U.S.C § 2501). Regarding Mr. Nolan’s remaining claims, defendant contends they fail because none relies upon a money-mandating statute to provide a basis for our court’s jurisdiction. Def.’s Mot. at 1–3.

Plaintiff failed to file a timely (or any) response to the motion to dismiss. On February 10, 2021, the Court, in light of plaintiffs *pro se* status, issued an order reminding Mr. Nolan of his need to respond to the motion and ordering him to do so by March 3, 2021. Again, no response was received. Accordingly, the complaint is

**DISMISSED** without prejudice pursuant to RCFC 41(b) for Mr. Nolan's failure to prosecute this matter. The government's motion to dismiss the case is **DENIED-AS-MOOT**. The Clerk shall close the case.

**IT IS SO ORDERED.**

  
VICTOR J. WOLSKI  
Senior Judge